

Public Schools of Brookline
Inclusion in Life of the School Activities Policy (draft)
December 14, 2023
Policy Review Subcommittee and
1st Reading, School Committee Meeting

The Public Schools of Brookline are committed to sustaining inclusive classrooms, schools, and systems that foster a sense of belonging for all students, including PSB out-of-district students, to participate in the life of their home schools. The PSB recognizes that extracurricular activities ~~such as clubs, arts programs, music, school spirit events, sports, dances, and more~~ enrich our students' lives and increase their sense of belonging in their school community. To this end, the district adheres to all state and federal mandates allowing system-wide access to all school activities, with the provision of reasonable accommodations based on individual student need. The level of accommodation to be provided shall be determined by the Office of Student Services, in consultation with parents/caregivers and the Individualized Education Program (IEP) team.

Under Section 300.107 of the Individuals with Disabilities Education Act (IDEA):

“Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child’s IEP team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.”

In other words, every student has a right to equal access to school-sponsored activities such as clubs, arts programs, music, school spirit events, sports, and dances. ~~Any activity hosted by the school or district falls into this category.~~ The Individuals with Disabilities Education Act does not explicitly define extracurricular activities, however lists generalized examples, including “athletics,” “recreational activities,” and “special interest groups or clubs.”

Some activities and programs that are typically considered to be extracurricular include:

- grade or school-wide performances,
- sports teams,
- choir or band,

- clubs for cooking, math, photography, and other subjects, and
- school newspapers or yearbook committees.

In the case of competitive programs such as athletics and some choir and theater productions, participation may be determined through a try-out process, which means a student will need to perform at a certain level to join the program or team. However, even in competitive programs, a student with disabilities has a right to try out with reasonable accommodations as determined by that student's IEP team. For example, if a hard of hearing student wants to join the track team, it is reasonable for the coach to wave a flag rather than blow a whistle to signal to the runners that the race is starting.

IDEA and ADA Compliance~~Limits on student rights for extracurricular activities~~

~~Private companies and third party providers, including nonprofits, are not required to follow IDEA regulations or to provide Free Appropriate Public Education (FAPE). However, other anti-discrimination laws do apply, such as the Americans with Disabilities Act. Furthermore, a student cannot be denied access on the basis of disability. If an activity is provided on campus by a third party, or is provided off-campus by the district, the PSB may be required to provide the supports and modifications listed in a child's IEP. Private providers may not have to provide services if the activity is not sponsored by the school, or if it is off-campus.~~

Recognizing that the requirements for private companies and third party providers may be less rigorous than those for the PSB depending on the extent of the bidirectional relationship with the third party provider, the onus shall not be on parents and caregivers to navigate the complexities of legal responsibility. Rather, the PSB shall work with each third party provider who operates at one or more PSB property to ensure compliance with the IDEA and ADA, so that no child entitled to accommodations is left out of after school programs, including Extended Day, on account of disability.

In the interest of transparency, the Deputy Superintendent of Student Services, or designee(s), shall submit a written plan for how each program intends to comply with the IDEA and ADA. In addition, all future contracts to be negotiated with PSB partners running extracurricular programs

shall include a non-discrimination clause that allows the district to terminate a contract based on the failure of the third party to comply with IDEA and ADA obligations.

As the ability for the Public Schools of Brookline to terminate a contract with a non-complying program provider in and of itself will not make an adversely impacted individual student whole, the Public Schools of Brookline will work with any adversely impacted student to promptly provide that student with the necessary supports either in the non-complying program, or in a comparable one.

~~ask each private and third party provider who operates at one or more PSB property to provide the PSB with a written plan for how it intends to comply with the Americans with Disabilities Act (ADA), as well as the extent to which the program intends to voluntarily comply with the spirit of IDEA regulations. Any future contracts to be negotiated with PSB partners shall set as a condition of partnership public disclosure of the foregoing information. This paragraph shall become effective immediately upon the School Committee's adoption of this policy.~~

For programs where the PSB are not required to provide accommodations (e.g. for general education students who reside within 1.5 miles of their home school), the PSB shall nevertheless ~~retain the option~~ endeavor to voluntarily offer such accommodations in the spirit of fostering maximal inclusivity. Where the location of a townwide after school program is logistically challenging for a subset of students, the district shall develop a written transportation plan to facilitate participation and consider opening other program locations more convenient to the program participants. Parents and caregivers shall also have the option ~~to~~ of independently providing ~~necessary~~ accommodations beyond minimum level requirements, ~~such as a 1:1 aide,~~ as long as the PSB and/or third party provider is not charged based on the decision of the parent or caregiver, and the program not fundamentally altered.

Notification

As inclusion in life of the school activities necessitates regular communication, all district notifications regarding event cancellations, public emergencies affecting operation of one or more PSB schools, or changes to contracted transportation services, shall be disseminated to all students

of potentially impacted schools, including to out of district students for whom the potentially impacted schools serve as their home schools.